THE HONOURABLE SRI JUSTICE N.V.RAMANA

Writ Petition No.24225 of 1998

Dated:06.06.2007

Between:

M.A.Hameed.

.....PETITIONER

AND

The Managing Director, APSRTC, Musheerabad, Hyderabad and another.

....RESPONDENTS

THE HONOURABLE SRI JUSTICE N.V.RAMANA

W.P.No.24225 of 1998

ORDER:

The petitioner joined the service of the respondent-APSRTC as Conductor on 11.06.1980. While working as such, he was removed from service by orders dated 11.12.1991. Aggrieved by the said removal orders, he preferred an appeal, which was rejected. Thereafter, he raised an industrial dispute in I.D. No. 626 of 1993, and the Labour Court, vide award dated 10.11.1997, set aside the order of removal and directed the respondents to reinstate him into service without continuity of service, back-wages and other monetary benefits. In compliance of the said award, the petitioner was reinstated into service as Conductor in the month of January 1998 and he is continuing as such. Now the grievance of the petitioner is that upon reinstatement, the respondents have given him the pay scale as if he is a fresh Conductor. He submits that since the Labour Court directed his reinstatement without continuity of service, backwages and other monetary benefits, he should be given the scale and the pay, which he had drawn as on the date of his removal from service, and the action of the respondents in not fixing his pay on reinstatement based on the salary drawn by him as on the date of his removal from service i.e., 11.12.1991, is illegal and arbitrary. The learned counsel for the petitioner relied upon an unreported judgment of this Court passed in W.P. No. 29422 of 1997, dated 24.06.1998, and contended that the respondent-APSRTC has erroneously fixed the scale of the petitioner as fresh conductor on

his reinstatement without taking into consideration his past service of 11 years.

2. When the matter came up for hearing, the learned counsel for the petitioner has produced a carbon copy of the unsigned counter-affidavit before this Court. As per the said counter-affidavit, the stand of the respondent-APSRTC is that the pay of the petitioner has already been fixed as per the award of the Labour Court, which directed reinstatement of the petitioner into service without continuity of service, backwages, and attendant benefits, and therefore, he cannot seek that his pay should be fixed as per last pay drawn by him.

3. Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondent-APSRTC.

4. A learned single Judge of this Court in W.P.No.29422 of 1997, considered similar issue and held thus:

> "It is relevant to note that when the petitioner was removed from service on 10.07.1989 as a disciplinary measure, he had put in roughly eight years of service and he might have earned increments during this period and drawing a salary higher than a new recruit could draw. Therefore, on reinstatement the petitioner is entitled to be paid same wage as he was drawing as on the date of his removal from service on 10.07.1989 as a disciplinary measure. Therefore, I dispose of the writ petition directing the respondents to fix the wage of the petitioner on reinstatement into service at the same rate the petitioner was drawing as on 10.07.1989. The arrears shall be paid within a period of three months from the date of receipt of a copy of this order. No costs".

5. In the instant case also, the petitioner while working in the respondent-APSRTC was removed from service on 11.12.1991. Assailing the said order, he raised an industrial dispute in I.D. No.626 of 1993 before the Labour Court-III, Hyderabad, which passed award dated 10.11.1997, directing the respondent-APSRTC to reinstate the petitioner into service, however it denied him continuity of service, back wages and other attendant benefits. The respondents in compliance of the said award, reinstated the petitioner into service in the month of January, 1998. Now the grievance of the petitioner is that the respondents, having reinstated him into service, have not given him the pay scale that was applicable to him as on the date of his removal from service i.e., 11.12.1991, but have given him the pay scale considering him as a new recruit. When the petitioner was removed from service on 11.12.1991 as a disciplinary measure, he had put in roughly eleven years of service and he might have earned increments during this period and drawing a salary higher than a new recruit could draw. Therefore, on reinstatement the petitioner is entitled to be paid same wage as he was drawing as on the date of his removal from service on 11.12.1991 as a disciplinary measure.

6. Having regard to the facts and circumstances of the case, and following the judgment of this Court in W.P. No.29422 of 1997, dated 24.06.1998, I deem it appropriate to dispose of the writ petition with the following directions:

The respondent-Corporation is directed to fix the wage of the petitioner on reinstatement into service at the same rate the petitioner was drawing as on 11.12.1991. The arrears shall be

paid within a period of three months from the date of receipt of a copy of this order.

Accordingly, the writ petition is disposed of. No costs.

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N.V. RAMANA, J.

Dated:06.06.2007
sj/ksr